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ZNR UUUUU ZZH
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FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 1766
RUCPDO/DEPT OF COMMERCE WASHINGTON DC PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 1965

UNCLAS BANGKOK 000426

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STATE PASS TO USTR
TREASURY FOR OASIA
COMMERCE FOR EAP/MAC/OKSA

E.O. 12958: N/A
TAGS: [ECON](#) [ETRD](#) [EINV](#) [TH](#)

SUBJECT: Thai alcohol valuation dispute moves to WTO

REF A: 07 Bangkok 5405
REF B: 07 Bangkok 2535

¶1. (SBU) Summary. After a customs valuation dispute remained unresolved after over one year of discussions with Royal Thai Customs officials, the EU in January requested formal consultation at the WTO over the valuation of imported distilled spirits. The Philippines has now also requested WTO consultations over Custom's valuation of imported cigarettes for similar reasons. U.S. companies have only a small role in the distilled spirits dispute, but are a major player in the Philippines case. Thai officials view their valuation method as a tool to fight corruption, but hope for a quick solution. End Summary.

¶2. (SBU) Alcohol and tobacco producers, including Diageo, Pernod Ricard, Bacardi, Brown & Foreman, and Phillip Morris, have had a longstanding dispute with Customs over the valuation of imported distilled spirits and cigarettes. Customs has used a "deductive valuation" method instead of accepting the invoiced value, which the companies argue is against WTO rules. The EU has documented over 500 cases of Thai Customs' using a method other than transaction value for imported spirits. Customs has said that the deductive valuation method is necessary to prevent companies from using artificially low intra-company transfer prices instead of the true transaction price.

¶3. (SBU) Over the past year, both the U.S. and the EU have pressed Thai Customs on the alcohol valuation issue multiple times at multiple levels of government but the issue is still outstanding. The EU last month decided to request consultations at the WTO and the Philippines requested consultations this week.

¶4. (SBU) Natina Santiyanont, the Director of the Thai Customs valuation office, told us that the current valuation method was developed after a Thai Police investigations unit uncovered a corruption scandal in which customs officers were complicit in agreeing to allow companies to value imports at artificially low intra-company transfer prices. From her standpoint, the current valuation method of imported distilled spirits is aimed at combating corruption and tax evasion, and is consistent with WTO rules which allow for deductive valuation when the declared transaction value is questionable. The affected firms have argued that deductive valuation is only a last resort and that Thai Customs failed to try intermediate valuation methods.

¶5. (SBU) Pimchanok Vonkhorporn, Director of the Department of Trade Negotiations in the Ministry of Commerce, said that she was not

surprised that the EU moved forward on WTO consultations but hoped for a quick resolution. She said they are in discussions with the Thai Ministry of Finance (which oversees Customs) to prepare documents for the WTO and continue to work with the EU delegation in Bangkok prior to the WTO consultation which will likely take place next month. Pimchanok said it is possible that there was a "misunderstanding" among Customs officials about the rules and regulations applicable to alcohol imports, but said that any solution would have to apply to cigarettes as well so that the same valuation method is used for both.

John